



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 23, 1996

Ms. Doreen McGookey
Assistant City Attorney
City of Dallas
501 Police and Courts Building
Dallas, Texas 75201

OR96-1245

Dear Ms. McGookey:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 37289.

The City of Dallas (the "city") received a request for information pertaining to two named police officers. You assert that portions of the information at issue are excepted from disclosure pursuant to section 552.101 of the Government Code.¹ Section 552.101 protects from disclosure information made confidential by other law.

We note initially that section 143.089 of the Local Government Code provides guidelines concerning a police officer's civil service file and a police department's internal personnel file. Sections 143.089(a) and (b) of the Local Government Code requires that certain documents must be maintained in a police officer's civil service file. This includes information relating to evaluations, sustained misconduct charges and disciplinary actions. Information maintained in civil service files must generally be released unless some provision of chapter 552 of the Government Code permits the civil service commission to withhold the information. Local Gov't Code § 143.089(f); Gov't Code §§ 552.006, .021; Open Records Decision No. 562 (1990) at 6 (construction of Local Gov't Code § 143.089(f) provision requiring release of information as required by law).

However, records maintained in the police department internal file are confidential pursuant to section 143.089(g), in conjunction with section 552.101 of the Government Code. You have not advised this office as to whether any of the information at issue is maintained pursuant to section 143.089(g), but we note if any of the records submitted for review are section 143.089(g) records, they are confidential. *City of San Antonio v. Texas*

¹We assume that other responsive information, if any, has been disclosed to the requestor. This letter deals only with the information submitted.

Attorney Gen., 851 S.W.2d 946 (Tex. App.--Austin 1993, writ denied); Open Records Decision No. 562 (1990) at 7.

Even if the records at issue are in the civil service file, they are confidential under section 552.101, which protects from disclosure records made confidential by law. Our review of the documents indicates that they are confidential employee medical records protected from public disclosure under the Americans with Disabilities Act of 1990 (the "ADA") 42 U.S.C. § 12101 *et seq.* In Open Records Decision No. 641 (1996), this office determined that medical information obtained pursuant to the ADA is confidential under section 552.101 of the Government Code in conjunction with 42 U.S.C. § 12112. *See also* 29 C.F.R. § 1630.14(b)(1) (medical information "shall be collected and maintained on separate forms and in separate medical files and be treated as a confidential medical record").

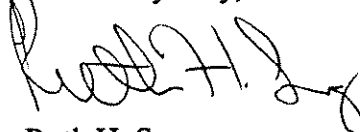
Section 12112(d)(3)(B) of title 42 of the United States Code provides that information regarding medical information may be disclosed as follows:

- (i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;
- (ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and
- (iii) government officials investigating compliance with this Act shall be provided relevant information on request.

These restrictions are applicable to medical information obtained from employees. 29 C.F.R. § 1630.14(c)(1)(i)-(iii). We conclude that Open Records Decision No. 641 (1996) is determinative in this situation and that the information at issue thus may not be publicly disclosed.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

Ref.: ID# 37289

Enclosures: Submitted documents
Open Records Decision No. 641 (1996)

cc: Mr. David Christopher
Investigative Reporter
KDFW-TV Dallas
400 N. Griffin Street
Dallas, Texas 75202
(w/ enclosure Open Records Decision No. 641 (1996))